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8 UNITED STATES DISTRICT COURT
9 IN AND FOR THE WESTERN DISTRICT OF WASHINGTON
10 SEATTLE DIVISION

11 AMA MULTIMEDIA, LLC, a Nevada
12 limited liability company

13 Plaintiff,

14 vs.

15 SPANKBANG.COM; NIVUN PTE LTD,
16 a foreign corporation, individually and
17 d/b/a SPANKBANG.COM; and John Does
18 1-20,

19 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

20 Plaintiff, AMA Multimedia LLC (hereinafter referred to as “Plaintiff”) by and through its
21 counsel, file this complaint against Defendants Spankbang.com, Nivun PTE Ltd, and the Doe
22 Defendants (collectively hereinafter referred to as “Defendant” or “Defendants”).
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JURISDICTION AND VENUE

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3 1. Plaintiff AMA Multimedia LLC is a Nevada limited liability company with its
4 principal place of business in Las Vegas, Nevada.

5 2. Defendant SpankBang.com is an Internet website that displays and distributes
6 adult oriented videos, content, and services.
7

8 3. The spankBang.com domain name is held by Whoisguard, Inc. using registrar Enom,
9 Inc. Whoisguard, Inc. is a foreign corporation located in the Republic of Panama. Enom, Inc. is a
10 division of Rightside Operating Co., a Washington corporation with headquarters located in
11 Kirkland, Washington.

12 4. Defendant Nivun Pte. Ltd. is a foreign company with offices located in Singapore
13 and, upon information and belief, organized under the laws of Singapore.
14

15 5. The actual identity of other owners and/or operators of spankBang.com are currently
16 unknown as they are using Whoisguard, Inc. to shield themselves.

17 6. Defendants contract with Cloudflare, Inc. located in San Jose, California, to operate
18 Defendant's name servers.

19 7. Defendants contract with Traffichaus for Internet advertising. Traffichaus is a
20 United States company, with offices located in San Diego, California.
21

22 8. The Court has personal jurisdiction over the Defendants, who have engaged in
23 business activities in and directed to this district, and have committed tortious acts within this
24 district or directed at this district.

25 9. Any alien defendant is subject to jurisdiction in any district. See 28 U.S.C. 1391
26 ("An alien may be sued in any district.") See also Fed. R. Civ. P. 4(k)(2).

5 12. This Court has personal jurisdiction pursuant to 28 U.S.C. §§ 1391(b), (c) and/or (d)
6
7 and 28 U.S.C. § 1400(a).

10 13. The named Plaintiff is the rightful copyright, trademark, and intellectual property
11 owner of the respective United States copyrights, trademarks and intellectual property that is the
12 basis for this action.

15. The AMA web sites, a network of twenty plus adult entertainment properties, are paid membership websites featuring over 1000 models in exclusive content.

(253) 383-4500 - (253) 383-4501 (fax)

1 17. AMA holds over 900 US Copyright Registrations for its audiovisual work and 12
2 Trademarks for its brands, including for all works listed in this Complaint.

3 18. Plaintiff is the respective producer, distributor, and exclusive licensor of its own
4 motion pictures in the United States as well as throughout the world.

5 19. Plaintiff has registered with the United States Copyright Office the copyrighted
6 works identified in this Complaint. Plaintiff's videos are watermarked with Plaintiff's readily
7 identifiable logo.

8 20. Plaintiff's Pornpros trademark and service mark has been continuously used in
9 commerce since February 2008. U.S. Trademark Registration No. 3566875 was registered on
10 January 27, 2009.

11 21. Plaintiff has expended considerable effort and expense in promoting its trademark
12 and the goods sold under the trademark Pornpros. As a result, the purchasing public has come to
13 know, rely upon and recognize the mark Pornpros as an international brand of high quality adult
14 entertainment.

15 22. Plaintiff's Passion-HD.com trademark and service mark has been continuously used
16 in commerce since December 2011. U.S. Trademark Registration No. 4190291 was registered on
17 August 14, 2012.

18 23. Plaintiff has expended considerable effort and expense in promoting its trademark
19 and the goods sold under the trademark Passion-HD.com. As a result, the purchasing public has
20 come to know, rely upon and recognize the mark Passion-HD.com as an international brand of high
21 quality adult entertainment.

1 24. Plaintiff's Passion-HD trademark and service mark has been continuously used in
2 commerce since December 2011. U.S. Trademark Registration No. 4251457 was registered on
3 November 27, 2012.

4 25. Plaintiff has expended considerable effort and expense in promoting its trademark
5 and the goods sold under the trademark Passion-HD. As a result, the purchasing public has come to
6 know, rely upon and recognize the mark Passion-HD as an international brand of high quality adult
7 entertainment.
8

9 26. Plaintiff's Castingcouch-x.com trademark and service mark has been continuously
10 used in commerce since October 2012. U.S. Trademark Registration No. 4575672 was registered
11 on July 29, 2014.

12 27. Plaintiff has expended considerable effort and expense in promoting its trademark
13 and the goods sold under the trademark Castingcouch-x.com. As a result, the purchasing public has
14 come to know, rely upon and recognize the mark Castingcouch-x.com as an international brand of
15 high quality adult entertainment.
16

17 28. Plaintiff's FantasyHD trademark and service mark has been continuously used in
18 commerce since April 2013. U.S. Trademark Registration No. 4591117 was registered on August
19 26, 2014.

20 29. Plaintiff has expended considerable effort and expense in promoting its trademark
21 and the goods sold under the trademark FantasyHD. As a result, the purchasing public has come to
22 know, rely upon and recognize the mark FantasyHD as an international brand of high quality adult
23 entertainment.
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1 30. Plaintiff's Tiny4k.com trademark and service mark has been continuously used in
2 commerce since May 2014. U.S. Trademark Registration No. 4678642 was registered on January
3 27, 2015.

4 31. Plaintiff has expended considerable effort and expense in promoting its trademark
5 and the goods sold under the trademark Tiny4k.com. As a result, the purchasing public has come to
6 know, rely upon and recognize the mark Tiny4k.com as an international brand of high quality adult
7 entertainment.
8

9 32. Defendants compete against Plaintiff in the distribution and sale of adults-only
10 audio-visual works through Internet distribution and divert potential customers from Plaintiff.

11 33. Further, upon information and belief, Defendants directly financially benefit
12 collectively or individually, from advertising revenue on spankbang.com. The presence of high
13 quality and lengthy infringing videos spankbang.com contribute to users returning to the site and the
14 overall growth of its audience, in turn which leading to higher advertising revenue for the
15 Defendants.
16

17 34. Defendant Nivun Pte. Ltd. is a listed with the United States Copyright Office as the
18 owner/operator of spankbang.com. However, it is believed that this is a sham company listing its
19 address in Singapore while the distribution of pornography is illegal in Singapore.
20

21 35. On April 2, 2015, after being the subject of a different lawsuit, Defendants filed an
22 Interim Designation of Agent to Receive Notification of Claimed Infringement with the United
23 States Copyright Office. Defendants informed the United State Copyright Office that Nivun Pte.
24 Ltd. does business as spankbang.com. Defendants appointed "Copyright Agent" with an address in
25 Florida as Agent to received copyright take down notices.
26

1 36. Defendants fail to honor take down notices delivered to their appointed DMCA
2 Agent.

3 37. Defendants fail to implement a reasonable repeat infringer policy for repeat
4 infringers on Spankbang.com.

5 38. Defendants fail to qualify for safe harbor protections for copyright infringement
6 liability under the Digital Millennium Copyright Act.

7
8 39. Does 1-20 are individual or entities that own spankbang.com and/or act in concert
9 with spankbang.com. The true names and capacities of which are presently unknown to Plaintiff.
10 It is for that reason Plaintiff sues these Defendants by fictitious names. Plaintiff avers that each of
11 the Doe defendants, along with the named defendant, jointly or severally, is responsible for the
12 damages alleged herein.
13

14 **STATEMENT OF FACTS**

15 40. Congress' implementation of safe harbor provisions in the Digital Millennium
16 Copyright Act ("DMCA") provides true internet service providers with protection against liability
17 for copyright infringement resulting from the actions and/or postings of their users. As a primary
18 example, the safe harbor protections provide YouTube.com with protection from liability should
19 one of its users post a copyright protected video without authority or license.
20

21 41. The DMCA safe harbor provisions have been systematically abused by internet
22 copyright infringers in an attempt to garner protection for pirate websites displaying copyrighted
23 adult entertainment content without license or authority for free viewing to the public. Under a
24 veneer of DMCA compliance, the owners and operators attempt to hide behind the safe harbor
25 provisions while monetizing the website through premium membership programs and substantial
26 advertising contracts.

1 42. Spankbang.com is such a pirate website, displaying copyrighted adult entertainment
2 content without authorization or license.

3 43. Defendants purport to display videos that are uploaded and/or posted by third party
4 users. In order to upload or post a video, a user must first register as a member of the site and create
5 an account with Defendants.

6 44. Defendants entice and induce users to post videos on spankbang.com. Defendants
7 offer users the opportunity to watch and download videos in High Definition (“HD”). However, in
8 order to take advantage such functionality on spankbang.com, the user must sign up for an account.

9 45. Moreover, in order to download an HD video from Spankbang.com, a user must first
10 upload a video to Spankbang.com. However, if a user wishes to download a Standard Definition
11 video, no video upload is required and they may do so at any time.

12 46. On information and belief, many registered users download the Standard Definition
13 videos and immediately re-upload the very same Standard Definition videos they just downloaded,
14 in order to “unlock” the High Definition videos on Spankbang.com. This creates a death spiral to
15 copyright holders and helps magnify the level of copyright infringement on Spankbang.com.

16 47. Videos on spankbang.com may be shared by the user with others, regardless of
17 whether they have uploaded a video to the site, as the user is provided with direct links for posting
18 on or to any social media site including, but not limited to, Facebook, Twitter, Google or via to
19 Email to anyone regardless of age or location. Such functionality makes it impossible to know how
20 many times and where an unlicensed copyrighted video has been posted and displayed illegally as a
21 direct result of Defendants unlawful display.

22 48. Defendants permit users of spankbang.com to search all videos and create “playlists”
23 of chosen videos. The user can then access these playlists from any computer or mobile device.
24
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1 49. At all times relevant to the infringing conduct alleged herein, Spankbang.com failed
2 to fulfill the requisite conditions precedent to qualify for the safe harbor provisions of the DMCA.

3 50. In or about July 2015, and for an unknown time before, Defendants' website
4 Spankbang.com displayed 25 of Plaintiff's copyright registered works over 33 separate and distinct
5 URLs - each a part of Spankbang.com. Defendants have no authority or license to display or
6 distribute any portion of Plaintiffs' copyrighted works.
7

8 51. On or about July 29, 2015, Plaintiff, or an authorized representative of Plaintiff, sent
9 via Federal Express and thereafter delivered to Defendant's DMCA Agent DMCA compliant take
10 down notices for each of the registered works.

11 52. In or about November 2015, Defendants' website Spankbang.com continued to
12 display 18 of the 25 copyright registered works on the same 21 URLs as were subject to the July
13 2015 DMCA compliant take down notices.
14

15 53. In or about December 2015, Defendants' website Spankbang.com displayed an
16 additional 44 of Plaintiff's copyright registered works over 49 separate and distinct URLs - each a
17 part of Spankbang.com. Defendants have no authority or license to display or distribute any portion
18 of Plaintiffs' copyrighted works.

19 54. On or about December 10, 2015, Plaintiff, or an authorized representative of
20 Plaintiff, sent via Federal Express and thereafter delivered to Defendant's DMCA Agent DMCA
21 compliant take down notices for each of the registered works. At the same time, Plaintiff, or an
22 authorized representative of Plaintiff, delivered to Defendant's DMCA Agent, via Federal Express,
23 twenty-one (21) *second* DMCA compliant take down notices for registered works that continued to
24 be displayed subject to the July take down notices.
25
26

1 55. In or about March 2016, Defendants' website Spankbang.com continued to display
 2 54 of Plaintiff's copyright registered works on the same 67 URLs that were subject to previous
 3 DMCA compliant take down notices. These copyrighted works, their corresponding
 4 Spankbang.com page, and DMCA notice dates are listed in Exhibit A, attached hereto.

5 56. Defendants fail to properly notify its users of its repeat infringer policy. In the
 6 Terms of Service, Defendants purport that the repeat infringer policy is termination upon three
 7 infringement notices for a user within a six-month period. On the DMCA page, Defendants purport
 8 that the repeat infringer policy is termination upon three infringement notices for a user within a
 9 three-month period. There is no indication which of these two policies is the actual policy applied
 10 by Defendants.
 11

12 57. Moreover, Defendants fail to implement *either* of the stated repeat infringer policies.
 13 Working with two leading industry takedown and copyright use tracking services, Takedown Piracy
 14 and Battleship Stance, Plaintiff was able to garner information regarding numerous specific users,
 15 associated with the uploading of Plaintiff's content that have not been terminated as repeat
 16 infringers in spite of DMCA takedown notices in excess of either of Defendants policies. By way
 17 of example (noting that these records are from *currently known* take down notices, and there are
 18 likely more notices in existence from other entities):
 19

- 20 a. In February 2016, Defendants received 5 DMCA compliant take
 21 down notices specific to user "cycochambers." Nonetheless,
 22 Cycochambers was not terminated and is purported to have posted a
 23 video as recently as March 4, 2016.
 24
- 25 b. Between January 2016 and February 2016, Defendants received 5
 26 DMCA compliant take down notices specific to user "erving."

1 Nonetheless, Erving was not terminated and is purported to have
2 posted a video as recently as March 4, 2016.

3 c. Between December 2015 and February 2016, Defendants received 19
4 DMCA compliant take down notices specific to user
5 “pimpdaddy773.” Nonetheless, Pimpdaddy773 was not terminated
6 and is purported to have posted a video as recently as March 4, 2016.

7
8 d. In December 2015, Defendants received 3 DMCA compliant take
9 down notices specific to user “sexy eye.” Nonetheless, Sexy Eye was
10 not terminated and is purported to have posted a video as recently as
11 February 2016.

12 e. In January 2016 and February 2016, Defendants received 9 DMCA
13 complaint take down notices specific to user “sunny20.” Nonetheless,
14 Sunny20 was not terminated and is purported to have posted a video
15 as recently as March 4, 2016.

16
17 f. In January 2016 and February 2016, Defendants received 6 DMCA
18 complaint take down notices specific to user “warhog27c.”
19 Nonetheless, Warhog27c was not terminated and is purported to have
20 posted a video as recently as March 4, 2016.

21
22 58. A search of Defendants website in March 2016 revealed one thousand six hundred
23 thirteen (1,613) new infringements of Plaintiff’s intellectual property, beyond those which were
24 subject to previous take down notices. There is no repeat infringer policy actually implemented and
25 DMCA Takedown Notices do not garner the result Congress intended: they do not stop the
26 continued infringement of Plaintiff registered works. For example:

- a. Spankbang.com user Pimpdaddy773 was the subject of 19 take down notices within three months, but not terminated. Subsequently, Pimpdaddy773 is purported to have posted eleven (11) new infringements of Plaintiff's copyrighted works.
- b. Spankbang.com user Cycochambers was the subject of 5 take down notices within three months, but not terminated. Subsequently, Cycochambers is purported to have posted thirty-one (31) new infringements of Plaintiff's copyrighted works.
- c. Spankbang.com user Sunny20 was the subject of 9 take down notices within three months, but not terminated. Subsequently, Sunny20 is purported to have posted three (3) new infringements of Plaintiff's copyrighted works.

59. The operations of the website render a copyright holder's ability to police its copyrights on Spankbang.com futile.

60. Further, upon information and belief, videos that are posted on Spankbang.com are not uploaded by unrelated third party users, but by Defendants themselves or by persons employed by or contracted with Defendants for purpose of uploading content to the web site.

61. At times, after receipt of a take down notice, Defendants change the user purportedly associated with uploading the video while maintaining the video on the same URL.

62. At times, Defendants purported records of registered users are inconsistent with valid users, including video posts for users before their purported join dates and inconsistent join dates for a particular user. More concisely, some users have videos published on dates that pre-date the date they actually joined Spankbang.com.

1 63. The infringement of intellectual property on Spankbang.com is not limited to the
2 unlawful display of Plaintiff's copyrighted works. In specific instances of copyright infringement,
3 Defendants have also infringed Plaintiff's registered trademarks.

4 64. For Plaintiff's videos that are displayed without authority on Spankbang.com, the
5 Defendants have caused Plaintiff's trademarks to be used in the meta tags and/or meta descriptions
6 for the URL of the infringing video.
7

8 65. A meta tag is an HTML (hypertext markup language) code embedded on a Web page
9 that is used by the website owner to identify the site content. Meta tags are powerful tools because
10 they have a direct effect on the frequency with which many search engines will find a website.

11 66. Meta tags and/or meta descriptions are used by Internet search engines as an
12 indexing tool to determine which web sites correspond to search terms provided by a user.
13

14 67. Meta tags do not affect the appearance of a website and are not visible when you
15 look at a Web page, but they provide information regarding the content of the site.

16 68. Some websites use meta tags in a deceptive manner to lure Web surfers. Instead of
17 using terms that properly describes the site, some programmers substitute the names of competing
18 companies. For example, a rival shoe manufacturer may bury the meta tag "Nike" in its Web page
19 to lure Web surfers searching for Nike products. In the case of the website selling handmade
20 watches, the meta tag might include "Rolex, Swatch, Bulova, Cartier."
21

22 69. By using Plaintiff's trademarks in Defendants' meta tags and/or meta descriptions,
23 Defendants use Plaintiff's trademarks in commerce and in connection with their promotions, sales,
24 and advertising.

25 70. The use of Plaintiff's trademarks in Defendants' meta tags and/or meta descriptions
26 is likely to cause confusion to the end users/consumers.

1 71. For example, for many of the videos displayed without authority or license on
2 Spankbang.com, “FantasyHD,” a Plaintiff trademark, is included in the meta tags and/or meta
3 description. Therefore, a user utilizing an internet search engine searching for “FantasyHD” will
4 discover that Plaintiff’s videos can be viewed for free on Spankbang.com. This will and does create
5 confusion on behalf of the user that Spankbang.com is an authorized distributor of Plaintiff’s videos
6 and, importantly, a belief that Plaintiff’s videos are available for free viewing.

7
8 72. Upon information and belief, Defendants have actual knowledge and clear notice of
9 the infringement of Plaintiff’s titles or else is willfully blind to the rampant infringement. The
10 infringement is clear and obvious even to the most naïve observer. Plaintiff’s films are indexed,
11 displayed and distributed on Defendants’ website through Defendant and the Doe Defendants acting
12 in concert. Plaintiff’s and other major producers’ trademarks are used to index infringing material
13 along with other identifiers which is evidence of knowledge and intent.

14
15 73. By virtue of the conduct alleged herein, Defendants knowingly promote, participate
16 in, facilitate, assist, enable, materially contribute to, encourage, and induce copyright infringement,
17 and thereby have infringed, secondarily infringed, and induced infringement by others, the
18 copyrights in Plaintiffs’ copyrighted work.

19
20 74. Defendants, either jointly, severally, actually, constructively, and with or without
21 direct concert with one another, deprived Plaintiffs of the lawful monetary rewards that accompany
22 its rights in the copyrighted works. Defendants disregard for copyright trademark laws threaten
23 Plaintiff’s business.

24 75. Defendants intentionally, knowingly, negligently, or through willful blindness
25 avoided reasonable precautions to deter rampant copyright infringement on their website.

1 85. Defendants knew or reasonably should have known they did not have permission to
2 exploit Plaintiffs' works on spankbang.com and further knew or should have known their acts
3 constituted copyright infringement.

4 86. Defendants made no attempt to discover the copyright owners of the pirated works
5 before exploiting them. Defendants failed and refused to take any reasonable measure to determine
6 the owner or license holder of the copyrighted works.

7 87. Defendants engaged in intentional, knowing, negligent, or willfully blind conduct
8 sufficient to demonstrate they engaged actively in the improper collection and distribution of
9 Plaintiffs' copyrighted works.

10 88. The quantity and quality of copyright files available to Internet users increased the
11 attractiveness of Defendants' service to its customers, therefore increasing its advertising revenue.

12 89. Based on information and belief, Defendants actively uploaded pirated
13 copyrighted files and/or embedded code enabling users of spankbang.com to view copyrighted
14 videos and images.

15 90. Defendants controlled the files removed from Defendants' website and
16 determined which files remained for display and distribution.

17 91. Defendants never adopted procedures to ensure that distribution of Plaintiff's
18 copyrighted materials would not occur. Further, Defendants never established, implemented, or
19 enforced a "repeat infringer" policy.

20 92. Defendants were aware, either actually or constructively, should have been aware, or
21 was willfully blind that pirated copyrighted materials comprised the most popular videos on the
22 Defendants website.

1 93. Defendants, through spankbang.com, affirmatively and willfully accommodated
2 Internet traffic generated by the illegal acts.

3 94. Defendants' conduct was willful within the meaning of 17 U.S.C. § 101, *et seq.* At a
4 minimum, Defendants acted with willful blindness and reckless disregard of Plaintiff's
5 registered copyrights.

6 95. Because of their wrongful conduct, Defendants are liable to Plaintiff for copyright
7 infringement. See 17 U.S.C. §501. Plaintiff suffers and will continue to suffer substantial
8 losses, including, but not limited to, damage to its business reputation and goodwill.

9 96. The law permits Plaintiff to recover damages, including readily ascertainable direct
10 losses and all profits Defendants made by their wrongful conduct. 17 U.S.C. §504.
11 Alternatively, the law permits Plaintiff to recover statutory damages. 17 U.S.C. §504(c).

12 97. Because of Defendants' willful infringement, the law permits enhancement of
13 the allowable statutory damages. 17 U.S.C. §504(c)(2).

14 98. The law permits Plaintiff injunctive relief. 17 U.S.C. §502. Further, the law
15 permits a Court Order impounding any and all infringing materials. 17 U.S.C. §503.

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20 **SECOND CAUSE OF ACTION**
21 **Contributory Copyright Infringement**
22 **Against All Defendants**

23 99. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding
24 allegation set forth herein.

25 100. Unknown individuals, without authorization, reproduced and distributed Plaintiff's
26 works through Defendants' website, directly infringing Plaintiff's copyrighted works.

101. Defendants contributed to the infringing acts of those individuals.

1 102. Defendants were aware, should have been aware, or were willfully blind to the
2 infringing activity.

3 103. Defendants aided, abetted, allowed, and encouraged those individuals to reproduce
4 and distribute Plaintiff's copyrighted works through Defendants' website without regard to
5 copyright ownership.

6 104. Defendants had the ability and obligation to control and stop the infringements.
7 Defendants failed to do so.

8 105. Defendants have engaged in the business of knowingly inducing, causing, and/or
9 materially contributing to unauthorized reproduction, adaptation, public display and/or distribution
10 of copies of the Plaintiff's copyrighted works, and thus to the direct infringement of Plaintiff's
11 copyrighted works.

12 106. Defendants received direct financial benefits from the infringements.

13 107. On information and belief, Defendants' actions constitute contributory infringement
14 of Plaintiff's copyrights and exclusive rights under copyright in the Plaintiffs' copyrighted works in
15 violation of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16 108. The unauthorized reproduction, distribution, and public display of Plaintiff's
17 copyrighted works that Defendant enables, causes, materially contributes to and encourages through
18 the acts described above are without Plaintiff's consent and are not otherwise permissible under the
19 Copyright Act.

20 109. The acts of infringement by Defendants have been willful, intentional, purposeful
21 and in reckless disregard of and with indifference to Plaintiff's rights.

1 110. As a direct and proximate result of the infringements by Defendants of Plaintiff's
2 copyrights and exclusive rights under copyright in the Plaintiff's copyrighted works, Plaintiff is
3 entitled to its actual damages and Defendants' profits pursuant to 17 U.S.C. § 504(b).

4 111. Alternatively, Plaintiff is entitled to maximum statutory damages, pursuant to 17
5 U.S.C. § 504(c), in the amount of \$150,000 with respect to each work infringed, or such other
6 amounts as may be proper under 17 U.S.C. § 504(c).

7 112. Plaintiff is further entitled to their attorneys' fees and full costs pursuant to 17 U.S.C.
8 § 505.

9
10 **THIRD CAUSE OF ACTION**
11 **Vicarious Copyright Infringement**
12 **Against All Defendants**

13 113. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding
14 allegation set forth herein.

15 114. Without authorization, individuals reproduced, distributed, and publicly displayed
16 Plaintiff's works through Defendants' website, directly infringing Plaintiff's copyrighted works.

17 115. Defendants were actually or constructively aware or should have been aware or were
18 willfully blind to the infringing activity.

19 116. Defendants were able to control or completely end the illegal and improper
20 infringement, but failed to do so.

21 117. Defendants contributed materially to the infringement.

22 118. Defendants received directly financial gain and profit from those infringing
23 activities.

24 119. The acts, omissions, and conduct of all Defendants constitute vicarious copyright
25 infringement.
26

120. The acts of infringement by Defendants have been willful, intentional, purposeful and in reckless disregard of and with indifference to Plaintiff's rights. As a direct and proximate result of the infringements by Defendants of Plaintiff's copyrights and exclusive rights under copyright in the Plaintiffs' copyrighted works, Plaintiff is entitled to its actual damages and Defendants' profits pursuant to 17 U.S.C. § 504(b).

121. Alternatively, Plaintiff is entitled to maximum statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each work infringed, or such other amounts as may be proper under 17 U.S.C. § 504(c).

122. Plaintiff is further entitled to their attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

COUNT IV
Inducement of Copyright Infringement
Against All Defendants

123. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding allegation set forth herein.

124. Defendants designed and/or distributed technology and/or devices and/or induced individuals to use this technology to promote the use of infringed and copyrighted material. As a direct and proximate result of Defendants' inducement, individuals infringed Plaintiff's copyrighted works. These individuals reproduced, distributed and publicly disseminated Plaintiff's copyrighted works through Defendants' website.

125. On information and belief, Defendants have encouraged the illegal uploading and downloading of Plaintiff's copyrighted works, thus inducing the unauthorized reproduction, adaptation, public display and/or distribution of copies of the Plaintiff's copyrighted works, and thus to the direct infringement of Plaintiff's copyrighted works.

1 126. Defendants' actions constitute inducing copyright infringement of Plaintiffs'
2 copyrights and exclusive rights under copyright in the Plaintiffs' copyrighted works in violation of
3 the Copyright Act, 17 U.S.C. §§ 106 and 501.

4 127. The infringement of Plaintiff's rights in and to each of the Plaintiff's copyrighted
5 works constituted a separate and distinct infringement.

6 128. The acts of infringement by Defendants have been willful, intentional, purposeful
7 and in reckless disregard of and with indifference to Plaintiff's rights.

8 129. As a direct and proximate result of the infringements by Defendants of Plaintiff's
9 copyrights and exclusive rights under copyright in the Plaintiff's copyrighted works, Plaintiffs are
10 entitled to its actual damages and Defendants' profits pursuant to 17 U.S.C. § 504(b).

11 130. Alternatively, Plaintiff is entitled to maximum statutory damages, pursuant to 17
12 U.S.C. § 504(c), in the amount of \$150,000 with respect to each work infringed, or such other
13 amounts as may be proper under 17 U.S.C. § 504(c).

14 131. Plaintiff is further entitled to their attorneys' fees and full costs pursuant to 17 U.S.C.
15 § 505.

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18 **SIXTH CAUSE OF ACTION**
19 **Trademark Infringement – 15 U.S.C. §§ 1111 *et. seq.***
20 **Against All Defendants**

21 132. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding
22 allegation set forth herein.

23 133. By virtue of its trademark registrations, Plaintiff has the exclusive right to use of the
24 trademarks, trade dress and service marks enumerated in this Complaint in the adult-oriented audio-
25 visual markets, including Internet markets.
26

1 134. Defendants' use of Plaintiff's registered trademarks and service marks is in a manner
2 likely to cause consumer confusion, as alleged herein, constitutes trademark infringement pursuant
3 to 15 U.S.C. § 1114.
4

5 135. Defendants' infringement is intentional and willful, has caused and will continue to
6 cause damage to Plaintiff in an amount to be proven at trial, and is causing irreparable harm to
7 Plaintiff for which there is no adequate remedy at law, thus Plaintiff are entitled to statutory and
8 treble damages.
9

10 **SEVENTH CAUSE OF ACTION**
11 **Contributory Trademark Infringement – 15 U.S.C. §§ 1111 *et. seq.***
 Against All Defendants

12 136. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding
13 allegation set forth herein.
14

15 137. By virtue of its trademark registrations, Plaintiff has the exclusive right to use of the
16 trademarks, trade dress and service marks enumerated in this Complaint in the adult-oriented audio-
17 visual markets, including Internet markets.

18 138. Defendants' actions that encouraged use of Plaintiff's registered trademarks and
19 service marks in manners likely to cause consumer confusion, as alleged herein, constitutes
20 trademark infringement pursuant to 15 U.S.C. § 1114.
21

22 139. Defendants' infringement is intentional and willful, has caused and will continue to
23 cause damage to Plaintiff in an amount to be proven at trial, and is causing irreparable harm to
24 Plaintiff for which there is no adequate remedy at law, thus Plaintiff are entitled to statutory and
25 treble damages.
26

EIGHTH CAUSE OF ACTION

False Designation of Origin under the Lanham Act – 15 U.S.C. §§ 1125 et. seq.
Against All Defendants

140. Plaintiff repeats, re-alleges, and incorporates by reference each and every preceding allegation set forth herein.

141. Upon information and belief, Defendants' conduct is likely to cause confusion, mistake or deception as to Defendants' affiliations, connection, or association with Plaintiff, or as to the origin, sponsorship or approval of their goods or commercial activities.

142. Defendants' conduct as alleged herein, including but not necessarily limited to their use of Plaintiff's marks, constitutes false designation of origin pursuant to 15 U.S.C. § 1125(a).

143. Plaintiff has been damaged by these acts in an amount to be proven at trial. Plaintiff is also entitled under the Lanham Act to injunctive and equitable relief against Defendants.

PRAYER FOR RELIEF

A. That Defendants, their agents, servants, officers, directors, employees, attorneys, privies, representatives, successors and assigns and parent and subsidiary corporations or other related entities, and any or all persons in act of concert or participation with any of them, be preliminarily and permanently enjoined from:

(1) Any and all reproduction, adaptation, public display and/or distribution of copies of the Plaintiff's copyrighted works by Defendants on any website, including but not limited to www.spankbang.com.

(2) Permitting any user to upload for reproduction, adaptation, public display and/or distribution of copies of the Plaintiffs' copyrighted works by Defendants on any website, including but not limited to www.spankbang.com.com.
and

(5) Marketing or selling any product containing or utilizing Plaintiff's intellectual property or business values, unless expressly authorized by Plaintiff.

1 B. That Defendants be ordered to transfer the domain www.spankbang.com, and all similar
2 domains held by Defendants found in discovery, such as misspellings of the enumerated domains,
3 domains held by Defendants linked to www.spankbang.com and the content therein to Plaintiff.

4 C. That Defendants be ordered to file with the Court and serve upon Plaintiff, within thirty (30)
5 after the entry of an injunction, a report in writing and under oath, setting forth in detail the manner
6 and form in which Defendants have complied with any ordered injunction;
7

8 D. That Plaintiffs be awarded damages in an amount to be determined at trial for all infringing
9 activities, including Plaintiff's damages and lost profits, Defendants' profits, plus any costs incurred
10 in preventing future confusion, mistake or deception, all from the date of first infringement;

11 E. That Defendants pay Plaintiff a sum sufficient to cover the cost of corrective advertising
12 necessary to alleviate any existing or lingering confusion resulting from Defendants' unauthorized
13 use of Plaintiff's trade dress and terms;
14

15 F. That Defendants be ordered to account to Plaintiff for all profits, gains and advantages
16 which have been realized as a consequence of their unauthorized use of Plaintiff's copyrighted
17 works;

18 G. That Plaintiff be awarded enhanced damages and attorney's fees;
19

20 H. That Plaintiff be awarded pre-judgment and post-judgment interest;
21

22 I. That Plaintiff be awarded costs and expenses incurred in prosecuting this action, including
23 expert witness fees; and

24 J. That such other and further preliminary and permanent relief be awarded to Plaintiff as the
25 Court deems appropriate.
26

1
2 DATED: March 25, 2016

Respectfully submitted,

3
4 By:

5 */s/ Spencer D. Freeman*

6 Spencer D. Freeman, Attorney at Law
7 Freeman Law Firm, Inc.

8 Attorney for Plaintiff

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EXHIBIT A

SITE: SPANKBANG.COM

Copyright Registration	Title	Infringing Link	Date of Notice 1	Date of Notice 2
PA0001922944	Casting Couch X video (2014.08)	http://spankbang.com/63qp/video/sammie+daniels	7/31/2015	12/11/2015
PA0001956394	POVD video (2015.0506)	http://spankbang.com/66s6/video/aubrey+gold+hula+hoo+p+hottie	7/31/2015	12/11/2015
PA0001951157	My Very First Time video (2015.0304)	http://spankbang.com/65kl/video/milly+austin+myveryfirsttime	7/31/2015	12/11/2015
1-2653886046	My Very First Time video (2015.0708)	http://spankbang.com/63sn/video/alice+march+alice+s+first+anal	7/31/2015	12/11/2015
PA0001804984	Real Ex Girlfriends video (2011.11)	http://spankbang.com/68hx/video/tasha+reign	7/31/2015	12/11/2015
1-1900054791	Teen BFF video (2014.09)	http://spankbang.com/688d/video/maci+winslett+and+alex+tanner+posing+for+cum	7/31/2015	12/11/2015
PA0001951163	Tiny 4K video 2015.0304.	http://spankbang.com/63gt/video/dillion+harper+excited+little+slut	7/31/2015	12/11/2015
PA0001929501	18 Years Old video (2014.09)	http://spankbang.com/6468/video/alli+rae+double+your+fun	7/31/2015	12/11/2015
PA0001954533	Teen BFF video (2014.11)	http://www.spankbang.com/4lvl/video/jade+nile+all+rae+bang+my+pussy	7/31/2015	12/11/2015
1-2653886274	POVD video (2015.0708)	http://spankbang.com/63yh/video/povd+goldie	7/31/2015	12/11/2015
PA0001956584	POVD video 2015.0102.	http://spankbang.com/695u/video/bath+time	7/31/2015	12/11/2015
PA0001888272	Pure Mature video (2013.09)	http://spankbang.com/65kv/video/ava+adams+gets+fucked	7/31/2015	12/11/2015
PA0001888272	Pure Mature video (2013.09)	http://spankbang.com/67ph/video/cheating+busty+milf+at+gym	7/31/2015	12/11/2015
PA0001925797	POVD video (2014.08)	http://spankbang.com/63zh/video/sex+at+a+young+age	7/31/2015	12/11/2015
PA0001901823	POVD video (2014.03)	http://spankbang.com/63nj/video/povd+hd+dillion+harper	7/31/2015	12/11/2015
PA0001901823	POVD video (2014.03)	http://spankbang.com/63nk/video/povd+hd+august+ames	7/31/2015	12/11/2015
PA0001901823	POVD video (2014.03)	http://spankbang.com/65ap/video/povd+babe	7/31/2015	12/11/2015

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PA0001954530	POVD video (2014.11)	http://spankbang.com/63nn/video/povd+hd+dillion+carter	7/31/2015	12/11/2015
PA0001857695	Fantasy-HD video (2013.03)	http://www.spankbang.com/5zlh/video/the+masseuse	12/10/2015	
1-1899988231	Fantasy-HD video (2014.09)	http://www.spankbang.com/4pck/video/dp+marina+visconti	12/10/2015	
PA0001922946	Tiny 4K video (2014.08)	http://www.spankbang.com/5hsn/video/good+luck+kiddo	12/10/2015	
PA0001827684	Passion-HD video (2012.09)	http://www.spankbang.com/6n7i/video/este+par+de+nena+s+solo+se+quieren+dar+placer	12/10/2015	
PA0001901823	POVD video (2014.03)	http://spankbang.com/4sj6/video/reverse+pov+handjobs	12/10/2015	
PA0001827491	Real Ex Girlfriends video (2012.09)	http://www.spankbang.com/4r9p/video/whitney+and+boy+friend	12/10/2015	
PA0001956584	POVD video (2015.0102)	http://www.spankbang.com/4mon/video/morning+selfies	12/10/2015	
PA0001833728	Massage Creep video (2013.01)	http://www.spankbang.com/5o1w/video/ex+gf+alice+marc+swedish+labia+massage	12/10/2015	
PA0001954526	Exotic 4K video (2014.11)	http://www.spankbang.com/4t7y/video/that+nadia+jay	12/10/2015	
PA0001954531	Pure Mature video (2014.11)	http://www.spankbang.com/6nm7/video/janet+mason+bed+and+bath	12/10/2015	
PA0001956587	Fantasy-HD video (2015.0102)	http://www.spankbang.com/4pyg/video/cat+nap+featuring+molly+jane	12/10/2015	
PA0001808098	Passion-HD video (2012.01)	http://www.spankbang.com/6l3o/video/blonde+with+deep+throat+and+sexual+dreams+erica+fontes	12/10/2015	
PA0001893006	18 Years Old video (2014.01)	http://www.spankbang.com/aovv/video/angelica+happy+hour+lust	12/11/2015	
PA0001951171	Exotic 4K video (2015.0304)	http://www.spankbang.com/9c6g/video/franceska+jaimes+spanish+oil	12/11/2015	
1-2827816626	Pure Mature video (2015.0910)	http://www.spankbang.com/92s2/video/phoenix+marie	12/11/2015	
PA0001929513	POVD video (2014.09)	http://www.spankbang.com/9ipd/video/maddy+rose+pov	12/11/2015	
PA0001901823	POVD video (2014.03)	http://www.spankbang.com/l8k/video/brunette+beauty+loves+it+hardcore	12/11/2015	
1-2827777452	Passion-HD video (2015.0910)	http://www.spankbang.com/ap5d/video/oily+massage+threesome+ffm	12/11/2015	
PA0001901823	POVD video (2014.03)	http://www.spankbang.com/lpq/video/sexy+eve+angel+ta	12/11/2015	

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PA0001951158	Massage Creep video (2015.0304)	http://www.spankbang.com/9kv2/video/pornpro+massage+girl	12/11/2015	
PA0001893385	18 Years Old video (2013.11)	http://www.spankbang.com/a30u/video/pretty+little+teens+4	12/11/2015	
1-2827740754	Casting Couch X video (2015.0910)	http://www.spankbang.com/8rhy/video/castingcouch+x+lucy+doll	12/11/2015	
PA0001956389	Real Ex Girlfriends video (2015.0506)	http://www.spankbang.com/ak6l/video/platinum+blonde+aubrey+gold	12/11/2015	
PA0001828918	Pure Mature video (2012.11)	http://www.spankbang.com/aq3u/video/pure+milf+vol+10	12/11/2015	
PA0001956613	Tiny 4K video (2015.0102)	http://www.spankbang.com/areb/video/rachel+james+tight+muscles	12/11/2015	
PA0001954526	Exotic 4K video (2014.11)	http://www.spankbang.com/apic/video/cassidy+banks+bb+b	12/11/2015	
1-3000354797	Passion-HD video (2015.1112)	http://www.spankbang.com/aptl/video/best+new+samantha+hayes+destiny+love	12/11/2015	
PA0001865691	Pure Mature video (2013.07)	http://www.spankbang.com/9in1/video/best+kortney+kan+e	12/11/2015	
PA0001956385	Exotic 4K video (2015.0506)	http://www.spankbang.com/9ing/video/best+veronica+rod+riguez	12/11/2015	
PA0001956389	Real Ex Girlfriends video (2015.0506)	http://www.spankbang.com/ap95/video/best+new+riley+r+eid	12/11/2015	
PA0001956390	Casting Couch X videos (2015.0506)	http://www.spankbang.com/8mrq/video/best+lyn+hoyt	12/11/2015	
PA0001956393	18 Years Old video (2015.0506)	http://www.spankbang.com/8mr3/video/best+lyn+hoyt	12/11/2015	
PA0001956610	18 Years Old video (2015.0102)	http://www.spankbang.com/ara5/video/best+new+keisha+grey	12/11/2015	
PA0001956397	Pure Mature video (2015.0506)	http://www.spankbang.com/9nij/video/puremature+morni+ng+jog	12/11/2015	
PA0001833577	Real Ex Girlfriends video (2013.01)	http://www.spankbang.com/908x/video/jynx+maze+ii	12/11/2015	
PA0001929513	POVD video (2014.09)	http://www.spankbang.com/90bm/video/jada+stevens	12/11/2015	

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PA0001892867	POVD video (2014.02)	http://www.spankbang.com/apvg/video/cock+hero+boss+fight	12/11/2015	
PA0001888387	Passion-HD video (2013.09)	http://www.spankbang.com/aoh0/video/giselle+mari+in+bloom	12/11/2015	
PA0001922944	Casting Couch X video (2014.08)	http://www.spankbang.com/9j92/video/tellula+rose+casting	12/11/2015	
1-2653886492	Real Ex Girlfriends video (2015.0708)	http://www.spankbang.com/artd/video/passion+hd+samantha+hayes+early+to+rise+23+nov+2015	12/11/2015	
PA0001954526	Exotic 4K video (2014.11)	http://www.spankbang.com/9vuk/video/fantasy+hd+dillion+harper+wet+and+ready+15+sept+2015	12/11/2015	
1-2653862208	Fantasy-HD video (2015.0708)	http://www.spankbang.com/9vq4/video/fantasy+hd+gracie+dai+take+a+dip+04+aug+2015	12/11/2015	
PA0001828918	Pure Mature video (2012.11)	http://www.spankbang.com/ap1o/video/rica+madura	12/11/2015	
1-3000355005	Pure Mature video (2015.1112)	http://www.spankbang.com/aqh8/video/a+sexy+milf+seen+from+different+angles	12/11/2015	
PA0001865684	Real Ex Girlfriends video (2013.07)	http://www.spankbang.com/akh2/video/dani+coats+herself+with+cream	12/11/2015	
PA0001862822	Fantasy-HD video (2013.05)	http://www.spankbang.com/8pk4/video/twister+sex	12/11/2015	
PA0001893402	Casting Couch X video (2013.11)	http://www.spankbang.com/9ijb/video/august+ames+casting+couch	12/11/2015	
PA0001912974	Pure Mature video (2014.05)	http://www.spankbang.com/ap6c/video/tommy+gunn+v+roiley+amazon+d+cup+milf	12/11/2015	
PA0001954530	POVD video (2014.11)	http://spankbang.com/63ns/video/povd+hd+lola+reve	12/11/2015	